

CHAPTER 288

GOVERNMENT - STATE

HOUSE BILL 94-1159

BY REPRESENTATIVE Tucker;
also SENATOR Mutzebaugh.

AN ACT

CONCERNING THE PEACE OFFICERS STANDARDS AND TRAINING BOARD, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. The introductory portion to 24-1-113 (3), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

24-1-113. Department of law - creation. (3) The department of law ~~shall consist of~~ INCLUDES the following: ~~divisions:~~

SECTION 2. The introductory portion to 24-31-102 (1) and 24-31-102 (1) (d), Colorado Revised Statutes, 1988 Repl. Vol., as amended, are amended to read:

24-31-102. Offices, boards, and divisions. (1) The department of law, the chief executive officer of which shall be the attorney general, ~~shall consist of~~ INCLUDES the following: ~~offices, boards, and divisions:~~

(d) The peace officers standards and training board ~~including the office of the director thereof,~~ created in part 3 of this article.

SECTION 3. 24-31-301, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

24-31-301. Definitions. As used in this part 3, unless the context otherwise requires:

(1) ~~"Basic classification" means the basic law enforcement training received by~~

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

~~a peace officer at the academy or at any other certified law enforcement training academy.~~ "APPLICANT" MEANS ANY PERSON SEEKING CERTIFICATION TO SERVE AS A PEACE OFFICER OR A RESERVE PEACE OFFICER.

(1.5) "BASIC TRAINING" MEANS THE BASIC LAW ENFORCEMENT TRAINING RECEIVED BY A PEACE OFFICER AT ANY APPROVED LAW ENFORCEMENT TRAINING ACADEMY.

(2) "Certification" means the issuance to ~~a peace officer or an applicant for appointment as a peace officer, by the P.O.S.T. board created in section 24-31-302 (1);~~ of a signed instrument evidencing ~~satisfaction by~~ THAT such ~~peace officer or applicant~~ ~~of~~ HAS MET the requirements imposed by this part 3 and ~~by said~~ THE P.O.S.T. board. CERTIFICATION INCLUDES "BASIC CERTIFICATION" THAT SHALL BE ISSUED TO PEACE OFFICERS, "RESERVE CERTIFICATION" THAT SHALL BE ISSUED TO RESERVE PEACE OFFICERS, AND SUCH ADDITIONAL CERTIFICATIONS AS THE BOARD MAY APPROVE FOR PEACE OFFICERS.

(3) "Instructor" means a person who meets applicable standards established by the ~~P.O.S.T. board for teaching training programs required for peace officer certification.~~

(4) "Local government representative" means a member of a board of county commissioners, member of a city or town council or board of trustees, or mayor of a city or town or city and county.

(5) "Peace officer" means ~~an investigator for a district attorney, the attorney general, or the Colorado bureau of investigation if designated for training under this part 3 by such district attorney, by the attorney general, or by the director of the Colorado bureau of investigation, any sheriff certified pursuant to this part 3, undersheriff, deputy sheriff other than one appointed with authority only to receive and serve summons and civil process, police officer, Colorado state patrol officer, parole officer employed pursuant to section 17-2-102 (3), C.R.S., security officer employed and commissioned pursuant to article 7 of this title at a state institution of higher education, or town marshal, which "peace officer" is employed by the state or a city, city and county, town, judicial district, or county within this state, any reserve police officer, reserve deputy sheriff, or reserve marshal, if designated for training as a peace officer under this part 3 by a chief of police, sheriff, or marshal, or any full-time officer of the Southern Ute Indian police force or Ute Mountain Ute Indian police force who is certified pursuant to this part 3 or otherwise qualified under section 24-31-306 (2)~~ ANY PERSON DESCRIBED IN SECTION 18-1-901 (3) (I), C.R.S.

(5.5) "RESERVE PEACE OFFICER" MEANS ANY PERSON DESCRIBED IN SECTION 18-1-901 (3) (I) (IV.5), C.R.S.

(6) "Training academy" means any school approved ~~and certified~~ by the P.O.S.T. board where peace officers AND RESERVE PEACE OFFICERS receive instruction and training.

(7) "Training program" means a course of instruction ~~adopted and required~~ APPROVED by the P.O.S.T. board for peace officer OR RESERVE PEACE OFFICER certification.

SECTION 4. 24-31-302 (1) and (3), Colorado Revised Statutes, 1988 Repl. Vol.,

as amended, are amended, and the said 24-31-302 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

24-31-302. Creation of board. (1) There is hereby created, ~~as a division~~ within the department of law, the peace officers standards and training board, referred to in this part 3 as the "P.O.S.T. board".

(3) The P.O.S.T. board shall consist of seventeen members. The ~~chairman~~ CHAIRPERSON of the P.O.S.T. board shall be the attorney general, and the ~~remaining~~ BOARD SHALL ANNUALLY ELECT FROM ITS MEMBERS A VICE-CHAIRPERSON. THE OTHER members shall be the special agent in charge of the Denver division of the federal bureau of investigation, the executive director of the department of public safety, one local government representative, six active chiefs of police from municipalities of this state, six active sheriffs from counties of this state, and one lay member. ~~Appointments of chiefs of police and sheriffs shall be made to provide for staggering of terms so that the terms of no more than two chiefs of police and two sheriffs expire each year, and thereafter appointments shall be for terms of three years.~~ The governor shall appoint the chiefs of police, ~~and~~ sheriffs, THE LAY MEMBER, AND THE LOCAL GOVERNMENT REPRESENTATIVE as members of the board ~~and~~ FOR TERMS OF THREE YEARS PER APPOINTMENT. THE GOVERNOR SHALL make appointments OF CHIEFS OF POLICE AND SHERIFFS in such a manner so that there is equal representation between departments which have their own or which use another training academy. If any chief of police, ~~or~~ sheriff, LAY MEMBER, OR LOCAL GOVERNMENT REPRESENTATIVE vacates such office during the term for which appointed to the P.O.S.T. board, a vacancy on the board shall exist. ~~and~~ ANY VACANCY shall be filled by appointment by the governor for the unexpired term. ~~Both the lay member and the local government representative member shall be appointed by the governor for a term of three years, and any vacancy in either such office on the board shall likewise be filled for the unexpired term. The P.O.S.T. board shall annually elect from its members a vice-chairman and a secretary. The members of the P.O.S.T. board shall receive no compensation for their services but may be reimbursed for all actual and necessary expenses incurred in the performance of their official duties.~~

(4) THE MEMBERS OF THE P.O.S.T. BOARD SHALL RECEIVE NO COMPENSATION FOR THEIR SERVICES BUT MAY BE REIMBURSED FOR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES.

SECTION 5. 24-31-303 (1) and (2), Colorado Revised Statutes, 1988 Repl. Vol., as amended, are amended to read:

24-31-303. Duties - powers of the P.O.S.T. board. (1) The P.O.S.T. board has the following duties:

(a) To ~~certify~~ APPROVE and to revoke the ~~certification~~ APPROVAL of training programs AND training academies, ~~and instructors~~; and to establish reasonable standards pertaining to such ~~certification~~ APPROVAL and revocation;

(b) To conduct periodic evaluations of training programs ~~training academies, and instructors, including~~ AND inspections of training academies;

(c) To establish procedures for determining whether or not a ~~peace officer meets~~ or AN APPLICANT has met the standards which have been set;

(d) To certify qualified ~~peace officers~~ APPLICANTS and withhold, SUSPEND, or revoke certification; ~~in the manner provided for by rules and regulations adopted by the P.O.S.T. board pursuant to the provisions of article 4 of this title;~~

(e) To certify inspectors of vehicle identification numbers and approve training courses relating thereto;

(f) To ~~arrange for~~ REQUIRE a background investigation of each applicant by means of fingerprint checks by the Colorado bureau of investigation or such other means as the P.O.S.T. board deems necessary for such investigation;

(g) TO PROMULGATE RULES AND REGULATIONS DEEMED NECESSARY BY SUCH BOARD FOR THE CERTIFICATION OF APPLICANTS TO SERVE AS PEACE OFFICERS OR RESERVE PEACE OFFICERS IN THE STATE PURSUANT TO THE PROVISIONS OF ARTICLE 4 OF THIS TITLE.

(2) (a) ~~In addition to the duties set forth in subsection (1) of this section, the P.O.S.T. board shall have the authority to promulgate rules and regulations deemed necessary by such board for the certification of peace officers in the state. Such rules and regulations may include, but need not be limited to, compliance with a personal history reviewing process that consists of background investigations and medical and psychological examinations of peace officers seeking certification.~~ ON AND AFTER JULY 1, 1994, THE P.O.S.T. BOARD MAY CHARGE THE FOLLOWING FEES, THE PROCEEDS OF WHICH MAY BE USED TO SUPPORT THE CERTIFICATION OF APPLICANTS TO SERVE AS PEACE OFFICERS OR RESERVE PEACE OFFICERS PURSUANT TO THIS PART 3:

(I) FOR THE MANUALS OR OTHER MATERIALS THAT THE BOARD MAY PUBLISH IN CONNECTION WITH ITS FUNCTIONS, AN AMOUNT NOT TO EXCEED TWENTY DOLLARS PER PUBLICATION; AND

(II) FOR THE ADMINISTRATION OF THE STANDARDIZED EXAMINATION, AN AMOUNT NOT TO EXCEED FIFTY DOLLARS PER EXAMINATION PER APPLICANT.

(b) THERE IS HEREBY CREATED IN THE STATE TREASURY A P.O.S.T. BOARD CASH FUND. THE FEES COLLECTED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) SHALL BE TRANSMITTED TO THE STATE TREASURER WHO SHALL CREDIT SUCH REVENUE TO THE P.O.S.T. BOARD CASH FUND. IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE FEES COLLECTED SHALL COVER ALL DIRECT AND INDIRECT COSTS INCURRED PURSUANT TO THIS SECTION. IN ACCORDANCE WITH SECTION 24-36-114, C.R.S., ALL INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEYS IN THIS FUND SHALL BE CREDITED TO THE GENERAL FUND. ALL MONEYS IN THE P.O.S.T. BOARD CASH FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY AND SHALL BE USED FOR THE PURPOSES SET FORTH IN THIS SUBSECTION (2).

SECTION 6. 24-31-304, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

24-31-304. Applicants for training - background investigation. (1) Each training academy, and college, or university which has established a training program which is approved by the P.O.S.T. board pursuant to section 24-31-303 shall require that all applicants for such training program submit a complete set of the applicant's fingerprints or such other information as is necessary for a background investigation of such applicant. No applicant PROVIDE WRITTEN NOTICE TO EACH APPLICANT THAT:

(a) NO PERSON who has been convicted of a felony or a crime involving moral turpitude shall be admitted to a training program administered by such academy or college or university. MAY BE CERTIFIED AS A PEACE OFFICER IN THE STATE OF COLORADO; AND

(b) IT IS EACH APPLICANT'S RESPONSIBILITY TO DETERMINE THE APPLICANT'S ELIGIBILITY FOR CERTIFICATION PRIOR TO ENROLLING IN ANY TRAINING PROGRAM.

(2) EACH TRAINING ACADEMY, COLLEGE, OR UNIVERSITY SHALL TAKE REASONABLE STEPS TO EXCLUDE FROM SUCH TRAINING PROGRAM THOSE APPLICANTS WHO ARE INELIGIBLE FOR CERTIFICATION BY REASON OF A CONVICTION OF A FELONY OR A CRIME INVOLVING MORAL TURPITUDE.

SECTION 7. 24-31-305, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

24-31-305. Certification - revocation of certification. (1) (a) The P.O.S.T. board shall issue a certificate to any ~~peace officer or~~ applicant for appointment as a peace officer who ~~presents evidence that the basic training standards and~~ HAS MET THE FOLLOWING BASIC certification requirements: ~~established by the P.O.S.T. board have been met and the peace officer has successfully completed a high school education or its equivalent. Such certification requirements shall include the passage of a standardized test which is developed and administered by the P.O.S.T. board. In addition, the certification shall designate compliance with any higher classification of standards for which such peace officer is qualified. The P.O.S.T. board shall deny certification to any person who has been convicted of a felony or a crime involving moral turpitude, unless such person has received a pardon. After January 1, 1995, no person shall be eligible to be employed as a peace officer unless such person is certified pursuant to this section.~~

(I) SUCCESSFUL COMPLETION OF A HIGH SCHOOL EDUCATION, OR ITS EQUIVALENT;

(II) BASIC TRAINING APPROVED BY THE P.O.S.T. BOARD;

(III) PASSAGE OF A STANDARDIZED TEST DEVELOPED AND ADMINISTERED BY THE P.O.S.T. BOARD.

(b) The training required for BASIC certification may be obtained either through the completion of a training program conducted by a training academy which has been approved by the P.O.S.T. board, or by the completion of a course of study which has been approved by the P.O.S.T. board.

(1.3) RESERVE CERTIFICATION REQUIREMENTS SHALL INCLUDE THE SUCCESSFUL COMPLETION OF A HIGH SCHOOL EDUCATION, OR ITS EQUIVALENT, AND TASK-SPECIFIC

TRAINING APPROVED BY THE P.O.S.T. BOARD.

(1.5) THE P.O.S.T. BOARD SHALL DENY CERTIFICATION TO ANY PERSON WHO HAS BEEN CONVICTED OF A FELONY OR A CRIME INVOLVING MORAL TURPITUDE.

(2) ~~A certificate~~ CERTIFICATION issued pursuant to SUBSECTIONS (1) AND (1.3) OF this section shall be subject to revocation OR SUSPENSION by the P.O.S.T. board ~~upon receipt by said board of sufficient evidence that~~ IF THE PEACE OFFICER OR RESERVE PEACE OFFICER:

(a) ~~The holder of the certificate~~ Has been convicted of a felony or a crime involving moral turpitude;

(b) ~~The holder of the certificate~~ Has not SERVED AS A COLORADO PEACE OFFICER OR RESERVE PEACE OFFICER for a period of three consecutive years or more; ~~been employed by a law enforcement unit in this state, including the Southern Ute Indian police force and the Ute Mountain Ute Indian police force, in a capacity for which such certificate is required.~~ OR

(c) HAS OTHERWISE FAILED TO MEET THE CERTIFICATION REQUIREMENTS ESTABLISHED BY THE BOARD.

(3) ~~The basic classification as established shall serve as a guideline~~ CERTIFICATION IS A PREREQUISITE for the ~~hiring or retention~~ APPOINTMENT OR RETENTION of all peace officers AND RESERVE PEACE OFFICERS. ~~Certification~~ ADDITIONAL CERTIFICATION reflecting a higher level LEVELS of proficiency ~~than the basic classification shall not be a condition precedent to the hiring, retention, or promotion of any peace officer.~~ However, higher classes of certification may, at the discretion of the employing agency, be required in hiring, retaining, or promoting peace officers.

SECTION 8. 24-31-306 (1) and (7), Colorado Revised Statutes, 1988 Repl. Vol., as amended, are amended to read:

24-31-306. Qualifications for peace officers - repeal. (1) (a) On and after July 1, 1973, a person may become a peace officer if, at the time of the appointment of such person as a peace officer, such person has been certified as having met the basic standards established pursuant to this part 3.

(b) THIS SUBSECTION (1) IS REPEALED, EFFECTIVE JANUARY 1, 1995.

(7) ~~The P.O.S.T. board shall require any applicant for certification or the agency employing such applicant to furnish the P.O.S.T. board with a complete set of the applicant's fingerprints or such other information as the P.O.S.T. board deems necessary for a background investigation of such applicant.~~ ON OR AFTER JANUARY 1, 1995, IT SHALL BE UNLAWFUL FOR ANY PERSON TO SERVE AS A PEACE OFFICER OR A RESERVE PEACE OFFICER IN THIS STATE UNLESS SUCH PERSON:

(a) IS CERTIFIED PURSUANT TO THIS PART 3; AND

(b) HAS UNDERGONE BOTH A PHYSICAL AND A PSYCHOLOGICAL EVALUATION TO

DETERMINE SUCH PERSON'S FITNESS TO SERVE AS A PEACE OFFICER OR A RESERVE PEACE OFFICER. SUCH EVALUATIONS SHALL HAVE BEEN PERFORMED WITHIN ONE YEAR PRIOR TO THE DATE OF APPOINTMENT BY A PHYSICIAN AND EITHER A PSYCHOLOGIST OR PSYCHIATRIST LICENSED BY THE STATE OF COLORADO.

SECTION 9. Part 3 of article 31 of title 24, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

24-31-307. Enforcement. (1) THE P.O.S.T. BOARD SHALL HAVE THE POWER TO DIRECT THE ATTORNEY GENERAL TO ENFORCE THE PROVISIONS OF THIS PART 3 THROUGH AN ACTION IN DISTRICT COURT FOR INJUNCTIVE OR OTHER APPROPRIATE RELIEF AGAINST:

(a) ANY INDIVIDUAL UNDERTAKING OR ATTEMPTING TO UNDERTAKE ANY DUTIES AS A PEACE OFFICER OR A RESERVE PEACE OFFICER IN THIS STATE IN VIOLATION OF THIS PART 3; AND

(b) ANY AGENCY PERMITTING ANY INDIVIDUAL TO UNDERTAKE OR ATTEMPT TO UNDERTAKE ANY DUTIES AS A PEACE OFFICER OR A RESERVE PEACE OFFICER IN THIS STATE UNDER THE AUSPICES OF SUCH AGENCY IN VIOLATION OF THIS PART 3.

(2) THE ATTORNEY GENERAL SHALL BE ENTITLED TO RECOVER REASONABLE ATTORNEY FEES AND COSTS AGAINST THE DEFENDANT IN ANY ENFORCEMENT ACTION UNDER THIS PART 3, IF THE ATTORNEY GENERAL PREVAILS.

SECTION 10. 24-7-105, Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

24-7-105. Officers' qualifications. Security officers shall be at least twenty-one years of age and shall possess such other qualifications as may be specified by the state personnel director, including continuing training as may be prescribed by the said director. ~~after consultation with the Colorado law enforcement training academy.~~

SECTION 11. 18-1-901 (3) (I) (III), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

18-1-901. Definitions. (3) (I) (III) "Peace officer, level II," means an inspector of the state licensing authority under section 12-46-116, C.R.S., of the "Colorado Beer Code"; an inspector of the liquor enforcement division under section 12-47-131, C.R.S.; an authorized investigator of the state lottery division pursuant to section 24-35-205 (3) or 24-35-206 (7), C.R.S.; any authorized investigators and the director of the division of gaming and the executive director of the department of revenue pursuant to section 12-47.1-204, C.R.S.; any officer, guard, or supervisory employee within the department of corrections, including parole officers pursuant to article 2 of title 17, C.R.S., except any investigator employed by the department of corrections; a security guard employed by the state of Colorado; a security officer as defined in section 24-7-101, C.R.S.; a district wildlife manager, special district wildlife manager, or parks and recreation officer defined as a peace officer pursuant to section 33-1-102, C.R.S., and acting under the authority of a peace officer pursuant to sections 33-6-101 and 33-15-101, C.R.S.; or a railroad employee defined as a peace

officer pursuant to section 40-32-104.5, C.R.S., WHO SHALL HAVE ACCESS TO COLORADO BUREAU OF INVESTIGATION FUGITIVE AND STOLEN PROPERTY RECORDS. "Peace officer, level II," has the authority to enforce all the laws of the state of Colorado while acting within the scope of his authority and in the performance of his duties, and section 18-1-106 (1.5) and section 18-3-107 shall apply to "peace officer, level II".

SECTION 12. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the P.O.S.T. board cash fund not otherwise appropriated, to the department of law, for allocation to the P.O.S.T. board, for the fiscal year beginning July 1, 1994, the sum of eight thousand nine hundred twenty-four dollars (\$8,924) and 0.2 FTE, or so much thereof as may be necessary, for the implementation of this act.

SECTION 13. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 31, 1994